

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT JAHODA,

Plaintiff,

v.

YNAP CORPORATION,

Defendant.

Lead Case No. 2:22-cv-00668-AJS

ROBERT JAHODA,

Plaintiff,

v.

CAROL'S, INC.,

Defendant.

Member Case No. 2:22-cv-00681-AJS

**MOTION FOR DEFAULT JUDGMENT AND ORDER  
FOR PERMANENT INJUNCTION**

Pursuant to [Rule 55\(b\)\(2\)](#) of the Federal Rules of Civil Procedure, Plaintiff Robert Jahoda moves the Court for entry of default judgment against Defendant Carol's, Inc..

1. Plaintiff is, and at all times relevant hereto, has been legally blind. He is a member of a protected class under the Americans with Disabilities Act ("ADA"), [42 U.S.C. § 12101](#) *et seq.* See Complaint, Member Case No. 2:22-cv-00681-AJS, ECF 1 at ¶ 17 (May 5, 2022) ("Compl.").

2. Defendant Carol's, Inc. has an online shop where consumers can purchase women's apparel, shoes, and accessories through its website, [www.shopcarols.com](http://www.shopcarols.com) ("Website"). See Compl., ¶¶ 4-5.

3. Defendant is an Alabama corporation with its corporate headquarters located at 109 19<sup>th</sup> St. E, Jasper, AL 35501. *See* Carol’s, Inc., Alabama Entity Details (attached hereto as **Exhibit A**).

4. Defendant’s Website is a place of public accommodation within the definition of Title III of the ADA, [42 U.S.C. § 12181\(7\)](#). *See Suchenko v. ECCO USA, Inc.*, [2018 WL 3933514](#), \*3 (W.D. Pa. Aug. 16, 2018) (“Simply put, Defendant in the instant case, like other corporate defendants in *Gniewkowski* and *Suchenko*, purportedly owns, operates, and/or controls the property upon which the alleged discrimination has taken place—i.e., its website. Therefore, Plaintiff in this case has a nexus to the place of public accommodation and thus may claim the protections of Title III.”).

5. On May 5, 2022, Plaintiff filed a Complaint for Declaratory and Injunctive Relief against Defendant seeking a permanent injunction requiring a change in Defendant’s corporate policies to cause its online store to become and remain accessible to individuals who are partially sighted, visually impaired, or totally blind. *See* Compl.

6. Plaintiff served the Complaint and Summons on Susie Akins, who is designated by law to accept service on behalf of Defendant at 109 19<sup>th</sup> St. E, Jasper, AL 35501 on June 28, 2022 by personal service. *See* Summons/Return of Service Returned Executed at Lead Case No. 2:22-cv-668-AJS, at ECF No. 38.

7. The Summons instructed Defendant to answer or respond within twenty-one (21) days of service. Defendant’s answer due date was July 19, 2022. *Id.*

8. Defendant never answered the Complaint.

9. On August 22, 2022, Plaintiff requested the Clerk to enter Default against Defendant for failure to plead or otherwise defend. *See* Request by Robert Jahoda for Entry of Default against Carol's, Inc., Lead Case No. 2:22-cv-668-AJS, at ECF 88.

10. Without opposition, the Clerk entered Default against Defendant on August 24, 2022. *See* Clerk's Entry of Default as to Carol's, Inc., Lead Case No. 2:22-cv-668-AJS, at ECF 94.

11. On August 24, 2022, Plaintiff's counsel served a copy of Plaintiff's Request for Entry of Default and the Clerk's Entry of Default as to Carol's, Inc. upon Defendant via FedEx at its corporate headquarter address. "J. Windham" signed for the delivery on August 26, 2022. *See* FedEx Proof-of-Delivery (attached hereto as **Exhibit B**).

12. Defendant still has not answered or otherwise appeared in this litigation. Nor has it or its representative contacted Plaintiff's counsel.

13. In light of the forgoing, Plaintiff respectfully moves the Court to enter default judgment against Carol's, Inc. and order a permanent injunction consistent with Plaintiff's Complaint, the details of which Plaintiff sets forth in the accompanying Memorandum and Proposed Order.

Dated: October 21, 2022

Respectfully Submitted,

/s/ R. Bruce Carlson

R. Bruce Carlson

Ian M. Brown

CARLSON BROWN

222 Broad St.

PO Box 242

Sewickley, PA 15143

bcarlson@carlsonbrownlaw.com

ibrown@carlsonbrownlaw.com

(724) 730-1753

Nicholas A. Colella  
**LYNCH CARPENTER LLP**  
1133 Penn Avenue Floor 5  
Pittsburgh, PA 15222  
(412) 322-9243  
nickc@lcllp.com

*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2022, a true and correct copy of the foregoing MOTION FOR DEFAULT JUDGMENT AND ORDER FOR PERMANENT INJUNCTION was filed electronically and is available for viewing and downloading from the Court's ECF system. I certify also that a true and correct copy will also be served upon the following via FedEx:

Carol's, Inc.  
109 19<sup>th</sup> St. E  
Jasper, AL 35501

/s/ R. Bruce Carlson  
R. Bruce Carlson